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DEC 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Christopher Chen	:	
Application No. 10/065,776	:	DECISION ON PETITION
Filed: November 18, 2002	:	UNDER 37 C.F.R. § 1.181
Attorney Docket No.: 23391/1	:	
Title: METHOD AND APPARATUS FOR	:	
THE PROCESSING OF USED TIRES	:	
AND OTHER MATERIALS	:	

This is a decision on the petition filed on October 30, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. § 1.113 in a timely manner to the final Office action mailed August 18, 2005, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on November 19, 2005. A notice of abandonment was mailed on April 17, 2006.

RELEVANT PORTION OF THE M.P.E.P..

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant

is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

With the present petition, Petitioner has asserted that the final Office action was not received, and has indicated that the communication was mailed to the wrong address.

A review of the electronic record confirms this assertion to be accurate.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the communication was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is GRANTED. The holding of abandonment is WITHDRAWN.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the final action of August 18, 2005, and will set a new period for response.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225¹. All other inquiries

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application
should be directed to the Technology Center.



Paul Shanowski
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Office of Petitions
